

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

IN RE KRAFT HEINZ
SECURITIES LITIGATION

Case No. 1:19-cv-01339

Honorable Robert M. Dow Jr.

THIRD JOINT STATUS REPORT

Lead Plaintiffs Sjunde AP-Fonden and Union Asset Management Holding AG, additional named Plaintiff Booker Enterprises Pty Ltd. (collectively, “Plaintiffs”), and The Kraft Heinz Company (“Kraft Heinz Defendants” or the “Company”), Bernardo Hees, Paulo Basilio, David Knopf, Alexandre Behring, George Zoghbi, and Rafael Oliveira (together, the “Kraft Heinz Defendants”), and 3G Capital Partners and its affiliates¹ (“Defendant 3G”), (collectively, “Defendants,” and Plaintiffs and Defendants taken together, the “Parties”), by and through their respective counsel, have met and conferred and submit the following supplemental joint status report pursuant to the Court’s Order (ECF No. 365):

I. STATUS OF DISCOVERY:

The deadline for Defendants to complete taking class certification discovery of Plaintiffs was Thursday, May 5, 2022. The deadline for Plaintiffs to complete taking class certification discovery of Defendants is July 8, 2022. The deadline for substantial completion of all document discovery is August 12, 2022. The fact discovery deadline is February 17, 2023. The expert discovery deadline is June 20, 2023.

A. Plaintiffs’ Discovery Efforts

Since the Parties submitted the Second Status Report (ECF No. 364), the Kraft Heinz Defendants made one production of documents responsive to Plaintiffs’ First Requests for the Production of Documents (the “First Requests”), which were directed to Defendants’ previous productions to the SEC and DOJ and the Company’s internal investigations. Plaintiffs’ Second Requests for the Production of Documents (the “Second Requests”) were served on November 12, 2021, and were principally directed to the substantial areas of document discovery not covered by

¹ Inclusive of the following affiliated funds and business entities: 3G Capital, Inc. (a Delaware corporation); the Cayman Islands business entities 3G Global Food Holdings, L.P.; 3G Global Food Holdings GP LP; 3G Capital Partners LP; 3G Capital Partners II LP; and 3G Capital Partners Ltd.

the First Requests. In mid-May, Plaintiffs and the 3G Defendants reached an agreement on a search protocol to respond to the Second Requests. The 3G Defendants expect to begin production in response to the Second Requests the week of June 27, 2022, and to make rolling productions thereafter.

Plaintiffs and the Kraft Heinz Defendants have continued to meet and confer regarding the Second Requests and in particular the scope of Defendants' search for responsive electronically stored information ("ESI"). Plaintiffs and the Kraft Heinz Defendants have reached an agreement as to the custodians for the Kraft Heinz Defendants' response to the Second Requests. The Kraft Heinz Defendants collected custodial emails and chats for the agreed-upon custodians. The Parties continue to meet and confer regarding the identification of responsive documents in the custodial emails and chats dataset. The Parties also continue to discuss search protocols for: (1) custodial sources other than emails and chats; (2) ESI containing Portuguese; (3) non-custodial sources; and (4) sources of ESI in the Individual Defendants' custody, possession, or control.

On April 26, 2022, Defendants disclosed for the first time to Plaintiffs the existence of an "internal investigation conducted by KHC's independent directors" concerning certain of the matters at issue and that resulted in a "Working Group Report," as Defendants and their expert relied upon in their opposition to class certification. (*See, e.g.*, ECF No. 359, p.14 n.5.) The Parties continue to meet and confer concerning the circumstances of this "internal investigation" (*id.*), the timing of its disclosure to Plaintiffs, including in response to discovery requests, and the production of documents responsive to Plaintiffs' First Requests. On June 15, 2022, the Kraft Heinz Defendants made an initial production of documents reviewed as a part of the internal investigation for the Working Group Report in response to Plaintiffs' First Set of Requests for the Production of Documents. The Kraft Heinz Defendants intend to make the next rolling production

of documents on or about June 30, 2022, and an additional production on or about July 15, 2022, which should substantially complete such production of the documents reviewed as part of the internal investigation for the Working Group Report.

B. Defendants' Discovery Efforts

On May 18, 2022, Defendants sent Lead Plaintiff Union a Second Request for the Production of Documents and served Rule 30(b)(1) deposition notices for the depositions of eight employees of Union. Lead Plaintiff Union responded to Defendants' Second Requests for Production of Documents on June 17, 2022. The Parties are meeting and conferring regarding these document requests and to schedule the 30(b)(1) depositions of Union's employees.

C. Class Certification

Plaintiffs' reply brief in support of class certification is due July 19, 2022. On June 17, 2022, Plaintiffs served two deposition notices on Defendants for the depositions of Allen Ferrell and Lawrence Smith. Ferrell and Smith offered expert testimony in connection with Defendants' opposition to Plaintiffs' Motion for Class Certification. Plaintiffs deposed Ferrell on June 23, 2022 and will depose Smith on June 29, 2022.

Dated: June 28, 2022

Respectfully submitted,

/s/ Katherine M. Sinderson

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

Salvatore Graziano
Katherine M. Sinderson
Abe Alexander
Jesse L. Jensen
Benjamin W. Horowitz
Nicole Santoro
1251 Avenue of the Americas
New York, NY 10020
Tel: (212) 554-1400
Fax: (212) 554-1444
salvatore@blbglaw.com
katiem@blbglaw.com
abe.alexander@blbglaw.com
jesse.jensen@blbglaw.com
will.horowitz@blbglaw.com
nicole.santoro@blbglaw.com

-and-

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

Avi Josefson
875 North Michigan Avenue,
Suite 3100 Chicago, Illinois 60611
Telephone: (312) 373-3880
Facsimile: (312) 794-7801

*Counsel for Co-Lead Plaintiff
Union and Co-Lead Counsel for the Class*

**KESSLER TOPAZ MELTZER
& CHECK, LLP**

Sharan Nirmul (#90751)
Richard A. Russo, Jr.
Joshua A. Materese (#314844)
Margaret E. Mazzeo
Alex B. Heller
Austin W. Manning
Helen J. Bass
280 King of Prussia Road
Radnor, Pennsylvania 19087

/s/ Andrew Ehrlich

JENNER & BLOCK LLP

Dean N. Panos (Il. ARDC # 6203600)
Howard S. Suskin (Il. ARDC # 6185999)
Gabriel K. Gillett (Il. ARDC # 6328233)
353 N. Clark Street
Chicago, IL 60654
Telephone: (312) 222-9350
Email: hsuskin@jenner.com
dpanos@jenner.com
ggillett@jenner.com

*Local counsel for Defendants The Kraft
Heinz Company, Bernardo Hees, Paulo
Basilio, David H. Knopf, Alexandre Behring,
George Zoghbi, and Rafael Oliveira*

**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**

Daniel J. Kramer (*pro hac vice*)
Andrew Ehrlich (*pro hac vice*)
William A. Clareman (*pro hac vice*)
Alison R. Benedon (*pro hac vice*)
1285 Avenue of the Americas
New York, NY 10019
Telephone: (212) 373-3000
Email: dkramer@paulweiss.com
aehrich@paulweiss.com
wclareman@paulweiss.com

*Counsel for Defendants The Kraft Heinz
Company, Bernardo Hees, Paulo Basilio,
David H. Knopf, Alexandre Behring, George
Zoghbi, and Rafael Oliveira*

/s/ Kevin M. Neylan, Jr.

KIRKLAND & ELLIS LLP

Sandra C. Goldstein (*pro hac vice*)
Stefan Atkinson (*pro hac vice*)
Kevin M. Neylan, Jr. (*pro hac vice*)
601 Lexington Avenue
Telephone: (212) 446-4800
New York, NY 10022
Email: sandra.goldstein@kirkland.com

Telephone: (610) 667-7706
Facsimile: (610) 667-7056
snirmul@ktmc.com
rrusso@ktmc.com
jmaterese@ktmc.com
mmazzeo@ktmc.com
aheller@ktmc.com
amanning@ktmc.com
hbass@ktmc.com

-and-

**KESSLER TOPAZ MELTZER
& CHECK, LLP**

Jennifer L. Joost
One Sansome Street, Suite 1850
San Francisco, CA 94104
Telephone: (415) 400-3000
Facsimile: (415) 400-3001

*Counsel for Co-Lead Plaintiff
AP-7 and Additional Plaintiff Booker, and Co-Lead
Counsel for the Class*

Brenton A. Rogers
300 North Lasalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Email: brogers@kirkland.com

*Counsel for Defendant 3G Capital Partners,
3G Capital, Inc., 3G Global Food Holdings,
L.P., 3G Global Food Holdings GP LP, 3G
Capital Partners LP, 3G Capital Partners II
LP, 3G Capital Partners Ltd.*